

**Congress of the United States**  
**Washington, DC 20515**

March 21, 2022

The Honorable Michael Regan  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20004

Dear Administrator Regan,

We write to you today about the Environmental Protection Agency's (EPA) recent proposal that could further hinder the registration process of new pesticide active ingredients (AIs). While we understand the EPA's intent to limit future litigation risk, we question whether the approach the agency is taking will have the desired outcome.

Of particular concern is the conflict between the Endangered Species Act (ESA) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This conflict has been the subject of repeated cases within the federal court system and has resulted in placing too much weight on the role of the National Marine Fisheries Service and the U.S. Fish and Wildlife Service in decisions regarding pesticide manufacture, distribution, and use. Congress entrusted these decisions to the experts within the EPA to properly regulate based on the principles of sound science and quantitative risk assessment – not to federal judges.

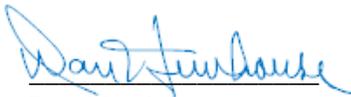
We are concerned about the time it will take to conduct the work being proposed, the resources such work will consume, compliance with statutory deadlines, and the seeming lack of commitment to involving pesticide users including farmers, ranchers, foresters, and public health pesticide applicators – including mosquito control professionals – in the proposed evaluations and development of risk mitigations. We also believe the process could benefit by greater involvement by the U.S. Department of Agriculture and state regulators. These entities can provide valuable insight into facts on the ground and have the opportunity to further engage with growers and other pesticide users. Their greater involvement will be crucial for improving the accuracy and reliability of assessments and advising EPA about realistic options for mitigation options, along with helping identify viable alternatives for growers if such needs arise.

Farmers are some of the greatest stewards of our lands, resources, and wildlife. Unfortunately, they understand all-too-well the impacts of top-down mandates. With the 2022 growing season around the corner, we believe EPA's actions will result in a great uncertainty for producers. A science-based, transparent, and predictable pesticide registration process is needed to provide pesticide users with the tools necessary to operate, contribute to local and national economies, strengthen our food supply chain, and – importantly – feed our families.

We urge you to closely assess the impact of these policies on the timely availability and effectiveness of critical pesticide products, and we require and appreciate your answers to the questions attached by no later than April 22, 2022.

We look forward to your response.

Sincerely,



Dan Newhouse  
Member of Congress



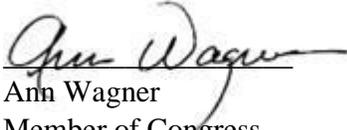
Glenn 'GT' Thompson  
Republican Leader  
House Committee on Agriculture



Elise M. Stefanik  
Member of Congress



Bruce Westerman  
Member of Congress



Ann Wagner  
Member of Congress



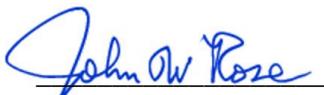
Mary E. Miller  
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Troy Balderson  
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Mike Bost  
Member of Congress



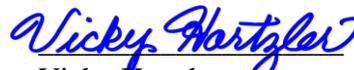
John Rose  
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Glenn Grothman  
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Jake LaTurner  
Member of Congress



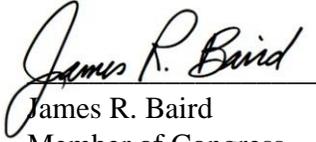
Vicky Hartzler  
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Julia Letlow  
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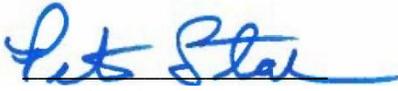
Kelly Armstrong  
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Matthew Rosendale, Sr.  
Member of Congress



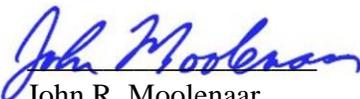
Pete Stauber  
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Jake Ellzey  
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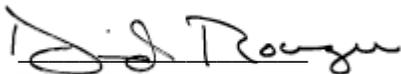
Chris Jacobs  
Member of Congress



John R. Moolenaar  
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Barry Moore  
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David Rouzer  
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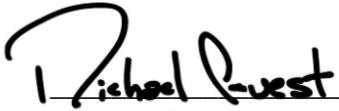
David Kustoff  
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Frank D. Lucas  
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W. Gregory Steube  
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Michael Guest  
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Ken Buck  
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Ben Cline  
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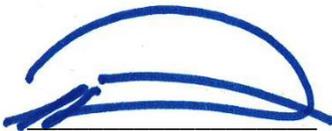
Fred Keller  
Member of Congress



Sam Graves  
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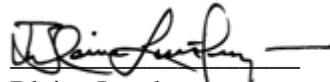
Earl L. "Buddy" Carter  
Member of Congress



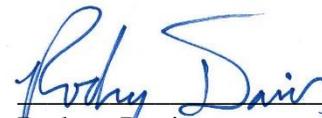
Scott DesJarlais  
Member of Congress



Billy Long  
Member of Congress



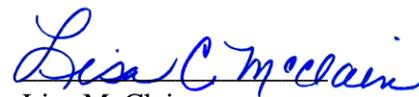
Blaine Luetkemeyer  
Member of Congress



Rodney Davis  
Member of Congress



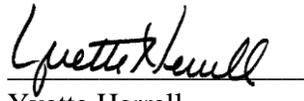
Austin Scott  
Member of Congress



Lisa McClain  
Member of Congress



Michelle Fischbach  
Member of Congress



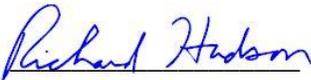
Yvette Herrell  
Member of Congress



Neal P. Dunn, M.D.  
Member of Congress



Cliff Bentz  
Member of Congress



Richard Hudson  
Member of Congress



Tim Walberg  
Member of Congress

Cc: The Honorable Tom Vilsack, Secretary, U.S. Department of Agriculture

- 1) EPA's assessment models result in a finding that, in effect, every pesticide might affect virtually all endangered and threatened species. What is EPA's plan to develop a more refined and accurate approach to biological assessments with meaningful results?
  - a. How and when will EPA have a reliable, science-based, coordinated review process to identify needed protective measures and avoid overly restrictive measures?
  - b. What actions, if any, are needed by Congress to ensure that EPA and the Services will have a coordinated, science-based, and transparent process?
- 2) How much additional time does EPA estimate any decisions about "up-front mitigations" will add to the current review periods allowed for decisions regarding new pesticide products?
  - a. To comply with the current timelines for review of new products as required in PRIA (Pesticide Registration Improvement Act) – how many additional staff and additional contract budget will be needed to include ESA reviews as part of PRIA actions?
- 3) How does the EPA plan to use upfront mitigations for already registered products?
  - a. Will EPA's approach add new restrictions in virtually all areas where such products are used?
  - b. Can EPA assure farmers and ranchers that "early mitigation" measures are reasonable and that critical pest control needs will be met?
- 4) How much time does EPA anticipate that ESA review will add to the registration timeline for new active ingredients? How was that length of time determined?
- 5) What resource needs does EPA anticipate will be required to more broadly incorporate ESA review into the pesticide registration process to minimize delays beyond the current statutory timelines? Over what period of time will additional resources be needed?
- 6) As implemented in a pesticide registration decision last month, EPA's new process resulted in denying access to the product based solely on political, not geographical or biological, boundaries (county lines). This approach is not sustainable for agriculture. What steps is EPA taking to incorporate better science and accurate usage data into its analysis to minimize disruption of grower access to needed tools? What resources are needed to obtain this data and undertake this refined analysis? Is there a role for registrants, growers, academics or others to provide necessary data?
- 7) How will conservation offsets be incorporated into the review process to minimize potential disruptions to agriculture that additional protections for endangered species may require? What is the timing on adoption of a conservation offset policy?

- 8) Congress recognized the value USDA could bring to this process in the 2018 Farm Bill. How has USDA been involved with improvements to the process thus far, and what role do you anticipate for USDA going forward with improvements to the ESA process for pesticides? What resources would be required for this involvement?
- 9) What outreach is being done with state pesticide regulators on changes to the registration process or pesticide labeling to implement these changes? Do you anticipate resource needs for states to enforce new labeling requirements? If so, what are those resource needs?
- 10) EPA regulations and longstanding policy allow 18 months for continued distribution and sale of pesticides following a voluntary label change. This policy serves the interests of agriculture and the environment, allowing for an orderly shift in agricultural pesticide use when appropriate. As enhanced ESA review is adopted for products already on the market, how will this policy be recognized, particularly in action taken to satisfy Sec. 7(d) of the ESA?
- 11) What are EPA's criteria for determining whether a species or critical habitat may require protective upfront mitigations?